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January 21, 1999

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
The Portals - TW-A325  
445 Twelfth Street, S.W.  
Washington, DC 20554

RECEIVED  
JAN 21 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Ex Parte  
Advanced Services Rulemaking  
CC Docket No. 98-147

Dear Ms. Salas:

Pursuant to Sections 1.1206(b)(1) and (2) of the Commission's rules, 47 C.F.R. Sections 1.1206(b)(1) and (2), I am providing this notice of an oral and written *ex parte* presentation in the above-captioned matter.

On January 20, 1999, Mike Duke, Manager of Regulatory Affairs, KMC Telecom, Inc., and myself met with Commissioner Harlold Furchgott-Roth, and with Paul E. Misener, and William R. Trumpbor, Office of Commissioner Furchgott-Roth. We presented views concerning issues in the above-captioned proceeding described in the attached outline of the presentation which was provided at the meeting to Commissioner Furchgott-Roth, Mr. Jackson and Mr. Trumpbor.

Two copies of this letter are enclosed.

Sincerely,



Patrick Donovan

cc: Commissioner Harold Furchgott-Roth  
Paul E. Misener  
William R. Trumpbor

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# **Expediting Deployment of Advanced Services**

**Mike Duke**

**Manager of Regulatory Affairs**

**KMC Telecom**

**MDUKE@KMCTELECOM.COM**

**January 20, 1999**

# Topics of Discussion

- KMC Strategies
- Collocation and Unbundled Network Elements
- InterLATA Relief
- Separate RBOC Subsidiary

# KMC Telecom

- KMC is authorized to provide competitive services in 18 states and Puerto Rico
- Through its fiber optic-based switching systems deployed to date, KMC provides services in Tier III markets in Huntsville, Melbourne, Pensacola, Sarasota, Tallahassee, Savannah, Augusta, Topeka, Baton Rouge, Shreveport, Greensboro, Winston-Salem, Corpus Christi, Roanoke and Madison
- KMC is planning to serve surrounding Tier IV markets
- KMC is planning to extend its service into the residential market

# **KMC Offers Advanced Services**

- **ClearStar™ -- Centrex-based voice data applications/ISDN**
- **Facilitating Dynamic Bandwidth through HDSL**
- **Port Wholesaling**
  - ◆ **Remote Access and SS7 Gateways**
- **Wideband Access Management, including integrated 5ESS Platforms**

# Collocation and Unbundled Network Elements -- Enforcing and Strengthening Obligations

- KMC applauds reports that the Commission will adopt strengthened collocation and unbundling requirements
- Collocation and UNEs are required for CLEC provisioning of advanced services
- Nondiscriminatory access to collocation space and network elements will subject RBOCs to competitive pressures, thereby encouraging deployment of advanced services

# **InterLATA Relief**

## **-- Legal Requirements**

- Statutory mandate of Section 271 is clear
- Under the current regime, RBOCs themselves have control over InterLATA Relief
- Section 706 does not overturn compliance with the 14-point competitive checklist

# **InterLATA Relief**

## **-- Policy Considerations**

- No Commission action is necessary to promote advanced services in rural areas
  - ◆ Market demand will attract all providers
- RBOCs do not (or should not) have a unique advantage to offer advanced services
- RBOCs have recently announced major ADSL initiatives: SBC, Bell Atlantic/AOL
- CLECs can and will offer such services



# **InterLATA Relief -- Policy Considerations (continued)**

- Commission should not abandon carrot and stick approach of Act
- No better incentive to offer advanced services than mechanisms already in place:
  - ◆ Vigorous enforcement of Section 271 and Competition itself
- No current need to protect rural end users, who enjoy the same access to the Internet as urban customers

# **Separate RBOC Affiliates**

## **-- Legal Definition**

- Section 251(h) bars ILECs from sidestepping their market-opening obligations
- Section 272 obligations do not make an affiliate a non-ILEC for these purposes
- Proposed separations are inadequate
  - ◆ Outside ownership
  - ◆ Joint Marketing
  - ◆ UNEs, Collocation and CPNI on same terms and conditions

# Separation Requirements

- Additional safeguards are critical
  - ◆ transfer of facilities
  - ◆ resale obligations
  - ◆ spectrum sharing
  - ◆ extended link

# **Separate RBOC Affiliates -- Policy Considerations**

- Network bifurcation could result in effective deregulation of all new services
- Separation of data affiliates will eliminate incentives to maintain and improve public switched network

# Conclusion

- FCC should abandon the separate affiliate initiative
- FCC should not provide interLATA relief absent Section 271 compliance